



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2011-0528; FRL—9904-67-Region 6]

Approval and Promulgation of Implementation Plans; Texas; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Standard Permit for Oil and Gas Facilities and Standard Permit Applicability

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Texas New Source Review (NSR) State Implementation Plan (SIP) submitted by the Texas Commission on Environmental Quality (TCEQ) on September 20, 1995; April 19, 1996; July 22, 1998; and September 11, 2000. These revisions to the Texas SIP establish the Standard Permit for Installation and/or Modification of Oil and Gas Facilities. EPA also proposes to approve non-substantive revisions to the Texas Standard Permit SIP rules relating to applicability, submitted on February 1, 2006, and March 11, 2011. EPA proposes to find that these revisions to the Texas SIP comply with the Federal Clean Air Act (the Act or CAA) and EPA regulations and are consistent with EPA policies. EPA is proposing these actions under section 110 of the Act.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R06-OAR-2011-0528, by one of the following methods:

- *www.regulations.gov*. Follow the on-line instructions for submitted comments.
- *E-mail:* Ms. Adina Wiley at wiley.adina@epa.gov.
- *Mail or delivery:* Ms. Adina Wiley, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

Instructions: Direct your comments to Docket ID No. EPA-R06-OAR-2011-0528. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through <http://www.regulations.gov> or e-mail, if you believe that it is CBI or otherwise protected from disclosure. The <http://www.regulations.gov> website is an “anonymous access” system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any

disk or CD-ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665-7253.

The State submittal related to this SIP revision, and which is part of the EPA docket, is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

The State submittals, which are part of the EPA docket, are also available for public inspection at the State Air Agency during official business hours by appointment: Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Ms. Adina Wiley, Air Permits Section, telephone (214) 665-2115; fax (214) 665-6762; e-mail wiley.adina@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, the following terms have the meanings described below:

- “we,” “us,” and “our” refer to EPA.
- “Act” and “CAA” means Clean Air Act.
- “40 CFR” means Title 40 of the Code of Federal Regulations – Protection of the Environment.
- “SIP” means State Implementation Plan as established under section 110 of the Act.
- “NSR” means new source review, a phrase intended to encompass the statutory and regulatory programs that regulate the construction and modification of stationary sources as provided under CAA section 110(a)(2)(C), CAA Title I, parts C and D, and 40 CFR 51.160 through 51.166.
- “Minor NSR” means NSR established under section 110 of the Act and 40 CFR 51.160.
- “NNSR” means nonattainment NSR established under Title I, section 110 and part D of the Act and 40 CFR 51.165.
- “PSD” means prevention of significant deterioration of air quality established under Title I, section 110 and part C of the Act and 40 CFR 51.166.
- “Major NSR” means any new or modified source that is subject to NNSR and/or PSD.
- “TSD” means the Technical Support Document for this action.
- “NAAQS” means national ambient air quality standards promulgated under section 109 of that Act and 40 CFR part 50.
- “TCEQ” means “Texas Commission on Environmental Quality.”

Table of Contents

- I. What Action is EPA Proposing?
- II. What has the State Submitted?

- III. EPA's Evaluation
- IV. Proposed Action
- V. Statutory and Executive Order Reviews

I. What Action is EPA Proposing?

EPA is proposing to approve four submittals from the State of Texas as revisions to the Texas New Source Review (NSR) State Implementation Plan (SIP) that incorporate the Standard Permit for Installation and/or Modification of Oil and Gas Facilities (hereafter referred to as the "Oil and Gas Standard Permit"). Texas initially submitted the Standard Permit provisions on September 20, 1995, and submitted subsequent revisions to those provisions on April 19, 1996; July 22, 1998; and September 11, 2000. We also are proposing to approve submittals from the State of Texas as a revision to the NSR SIP that contain non-substantive changes to the applicability provisions of the Standard Permits SIP permitting program. Texas submitted revisions to the Standard Permit applicability provisions on February 1, 2006 and resubmitted them on March 11, 2011.

We have evaluated the SIP submissions for whether they meet the Act and 40 CFR part 51, and are consistent with EPA's interpretation of the relevant provisions. Based upon our evaluation, EPA has concluded that the SIP revision submittals for the Oil and Gas Standard Permit and the non-substantive revisions to the Standard Permit applicability provisions meet the applicable requirements of the Act and 40 CFR part 51. Therefore, EPA is proposing to approve the provisions of the submittals relating to the Oil and Gas Standard Permit SIP revisions and to the Standard Permit applicability provisions. EPA is proposing this action under section 110 of the Clean Air Act (CAA).

II. What has the State Submitted?

A. Submittals Relating to the Oil and Gas Standard Permit

The TCEQ has developed and submitted the Oil and Gas Standard Permit as a revision to the Texas Minor NSR permit program. The Standard Permit was initially developed by TCEQ in 1995, and TCEQ has adopted subsequent amendments and submitted these as revisions to the Texas SIP since that time. As discussed in Section I of this rulemaking, EPA is proposing approval of the Oil and Gas Standard Permit – from the date of the initial submittal, dated September 20, 1995, through the September 11, 2000 SIP revision. This Section contains a brief summary of each of the SIP revisions pertaining to the Oil and Gas Standard Permit that is subject to our proposed approval.

i. September 20, 1995 SIP Submittal

On July 26, 1995, the Texas Natural Resources Conservation Commission (TNRCC)¹ adopted revisions to the state regulations to establish the Oil and Gas Standard Permit. The Standard Permit was adopted at Title 30 of the Texas Administrative Code (30 TAC) Chapter 116.617(3). Note that the September 20, 1995 SIP submittal contained additional, severable, revisions to 30 TAC Chapter 116, which are not addressed as part of this rulemaking.

ii. April 19, 1996 SIP Submittal

On March 27, 1996, the TNRCC adopted amendments to the state regulations to delete 30 TAC 116.617(3) – Installation and/or Modification of Oil and Gas Facilities and move the Standard Permit to 30 TAC 116.620. The Standard Permit previously contained in 30 TAC 116.617(3) was moved and renumbered to conform these sections to Texas Register style conventions and to allow ease in revising the section in the future. Note that the April 19, 1996

¹ TNRCC is the predecessor agency of the TCEQ.

SIP submittal contained additional, severable, revisions to 30 TAC Chapter 116, which are not addressed as part of this rulemaking.

iii. July 22, 1998 SIP Submittal

On June 17, 1998, the TNRCC adopted amendments to the state regulations that included amendments to 30 TAC 116.620. These revisions added a requirement that sources subject to National Emission Standards for Hazardous Air Pollutants (NESHAPs) show compliance with Maximum Achievable Control Technology (MACT) standards, and also made non-substantive changes. Note that the July 22, 1998 SIP submittal contained additional, severable, revisions to 30 TAC Chapter 116, which are not addressed as part of this rulemaking.

iv. September 11, 2000 SIP Submittal

On August 9, 2000, the TNRCC adopted amendments to the state regulations that included amendments to 30 TAC 116.620. These revisions made non-substantive changes. Note that the September 11, 2000 SIP submittal contained additional, severable, revisions to 30 TAC Chapters 101 and 116, which are not addressed as part of this rulemaking.

B. Relating to Standard Permit Applicability Provisions

i. February 1, 2006 SIP Submittal

On January 11, 2006, the TCEQ adopted revisions to the Standard Permit SIP rules, which made non-substantive changes to the applicability provisions in 30 TAC 116.610(a) and (b). Note that the February 1, 2006 SIP submittal contained additional, severable, revisions to 30 TAC Chapter 116, which are not addressed as part of this rulemaking.

ii. March 11, 2011 SIP Submittal

On March 11, 2011, the same changes that were submitted on February 1, 2006, to 30 TAC 116.610(a) and (b) were resubmitted. Note that the March 11, 2011 SIP submittal contained

additional, severable, revisions to 30 TAC Chapter 116, which are not addressed as part of this rulemaking.

Table 1. Summary of Pending SIP Submittals Addressed in this Action

Date Submitted to EPA	Date Adopted by State	Date Effective as State Rule	Sections Related to Standard Permit for Installation and/or Modification of Oil and Gas Facilities
9/20/1995	7/26/1995	9/1/1995	Submittal of new Section 116.617(3)
4/19/1996	3/27/1996	4/19/1996	Deletion of Section 116.617(3); Standard Permit moved and renumbered to new Section 116.620 to conform to Texas Register style conventions
7/22/1998	6/17/1998	7/8/1998	Revisions to Section 116.620
9/11/2000	8/9/2000	9/4/2000	Revisions to Section 116.620
02/01/2006	01/11/2006	02/01/2006	Revisions to Section 116.610
03/11/2011	01/11/2006	02/01/2006	Revisions to Section 116.610

Table 2. Summary of the Individual Revisions to Each Section Evaluated

Section – Title	Date Submitted to EPA	Date Adopted by State	Date Effective as State Rule	Comments
30 TAC Chapter 116 – Control of Air Pollution by Permits for New Construction or Modification				
Subchapter F – Standard Permits				
Section 116.610 – Standard Permit Applicability	02/01/06	01/11/06	02/01/06	<ul style="list-style-type: none"> • Non-substantive changes to 116.610(a) • Non-substantive changes to 116.610(b)
	03/11/11	01/11/06	02/01/06	Resubmittal of the January 11, 2006 adopted changes to 116.610(a) and (b)
Section 116.617 – Standard Permit List	9/20/1995	7/26/1995	9/1/1995	Initial adoption of Standard Permit at 116.617(3)
	4/19/1996	3/27/1996	4/19/1996	Deletion of 116.617(3)
Section 116.620 – Installation and/or Modification of Oil and Gas Facilities	4/19/1996	3/27/1996	4/19/1996	Initial adoption of this section; Standard Permit moved from 116.617(3)

	7/22/1998	6/17/1998	7/8/1998	<ul style="list-style-type: none"> • 116.620(a)(4) removed reference to standard exemption (SE) 6 and replaced with reference to PBR 106.512 • 116.620(a)(13) was updated to include reference to case-by-case MACT review under Subchapter C • 116.620(a)(14) was subdivided into sections 116.620(a)(14) – (15) • 116.620(a)(16) was added to require sources subject to NESHAPs to show compliance with MACT standards • 116.620(a)(15) – (16) were renumbered to (17) and (18) • 116.620(b)(1) removed reference to SE 83 and replaced with reference to PBR 106.476 • 116.620(c)(1)(A) uses EPA acronym in place of formal name • 116.620(c)(1)(J) adds “Permits” to division name • 116.620(c)(2)(J) adds “Permits” to division name • 116.620(d)(3) changes office name • 116.620(e)(1) changes office name and removes “his or her designated representative”
	9/11/2000	8/9/2000	9/4/2000	<ul style="list-style-type: none"> • 116.620(a)(4) eliminated the parenthetical reference to the former standard exemption 6. • 116.620(a)(11) eliminated parentheses around H₂S • 116.620(b)(1) eliminated the parenthetical reference to previous SE 83 • 116.620(b)(E) eliminated reference to “exemptions” and now refers to “permits by rule” consistent with the other rule language updates • 116.620(c)(1)(J) changes office name

C. Overview of the Oil and Gas Standard Permit

EPA approved Texas' general regulations for Standard Permits in 30 TAC Subchapter F of 30 TAC Chapter 116 on November 14, 2003 (68 FR 64543) as meeting the federal requirements for Minor NSR.² The November 14, 2003, action describes how those rules meet EPA's requirements for new minor sources and minor modifications. A Standard Permit is a minor NSR permit that is adopted under Chapter 116, Subchapter F. Subchapter F provides an alternative process for approving the construction of certain categories of new and modified sources for which TCEQ has adopted a Standard Permit. These provisions provide for a streamlined minor NSR mechanism for authorizing the construction of certain sources within source categories for which TCEQ has adopted a Standard Permit. A Standard Permit is not available to a facility or group of facilities that undergo a change that constitutes a new major source or major modification under Title I of the Act, part C (Prevention of Significant Deterioration of Air Quality) or part D (Nonattainment Review). Such major source or major modification must comply with the applicable permitting requirements under Chapter 116, Subchapter B, which meet the new source review requirements in Title I, part C or part D of the Act. A facility that qualifies for a minor NSR Standard Permit must also comply with all applicable provisions of section 111 of the Act (NSPS) and section 112 of the Act (NESHAP). Furthermore, a facility that qualifies for a minor NSR Standard Permit must comply with all rules and regulations of TCEQ.

A Standard Permit is not a case-by-case Minor NSR SIP permit, but rather it is a streamlined mechanism with all permitting requirements for construction and operation of a certain source category. Therefore, each Standard Permit approved in a SIP should contain all

² EPA did not approve the Standard Permit for Installation and/or Modification of Oil and Gas Facilities in the November 14, 2003, action as part of the Texas SIP (68 FR 64543, at 64547).

terms and conditions on the face of it (combined with the SIP general requirements), and it should not be used to address site-specific determinations.

The Oil and Gas Standard Permit was developed to provide a streamlined permitting process for oil and gas facilities. The Standard Permit contained in 30 TAC 116.620 simplifies the permit review process for these facilities by establishing standardized conditions applicable to the oil and gas industry, which help to streamline the agency review process and allow more rapid approval than would be possible under case-by-case minor NSR review permitting.

The standardized conditions contained in the Oil and Gas Standard Permit include emission specifications, control requirements, inspection requirements, approved test methods provisions, and monitoring and recordkeeping requirements. In addition, a source applying for authorization under 30 TAC 116.620 must also meet the applicable requirements contained in the other Sections under 30 TAC Chapter 116, Subchapter F – Standard Permits, which include registration and fee requirements and general permit conditions for Standard Permits. In accordance with 30 TAC 116.610(b), the Oil and Gas Standard Permit is limited to Minor NSR and cannot be used to authorize a project that constitutes a new major stationary source or major modification. Therefore, as discussed in the following section, the Oil and Gas Standard Permit provisions are evaluated with respect to the applicable Minor NSR requirements.

As previously mentioned, the Oil and Gas Standard Permit includes standardized conditions for the emission units located at oil and gas facilities that may be authorized by the Standard Permit. The types of emission units that may be authorized by the Standard Permit are the following:

- Internal combustion engines (ICEs),
- Natural gas turbines (NG turbines),

- Flares,
- Other combustion units (design heat input > 40 million Btu per hour),
- Natural gas glycol dehydration units,
- Storage tanks,
- Separators,
- Condensers,
- Vapor recovery units,
- Process vents, and
- Process fugitives.

In order for one of the previously-listed emission units to be authorized by the Standard Permit, that unit must meet the applicable unit-specific standardized conditions, and , the oil and gas facility as a whole must meet any applicable site-wide standardized conditions contained in the Standard Permit. If a proposed project at an oil and gas facility includes any emission units that are not explicitly covered by the Oil and Gas Standard Permit, the permit applicant would turn to another type of Standard Permit authorization or a permit-by-rule (PBR) or, if necessary, case-by-case NSR permitting for authorization. For example, the Oil and Gas Standard Permit does not provide authorization for cooling towers. Therefore, an oil and gas facility with a cooling tower on-site would not be able to use the Oil and Gas Standard Permit to authorize the emissions from that emission unit, but could rely upon the separate cooling tower SP or PBR.³ Any other emission units not specifically authorized under the Oil and Gas Standard Permit also could obtain authorization through either a SP or PBR that explicitly addresses it or obtain a

³ For example, cooling towers, including those located at oil and gas facilities, that meet all of the applicable PBR requirements may be authorized under the SIP-approved Cooling-Water Unit PBR found at 30 TAC 116.371.

case-by-case minor NSR permit. In addition to cooling towers, other examples of emission units that may be found at oil and gas facilities that are not covered by the Oil & Gas Standard Permit include, but are not limited to, truck loading emissions, heat exchangers, amine sweetening units, and sulfur recovery units. If EPA discovers evidence to support the determination that the TCEQ were found to be misapplying the Oil and Gas Standard Permit or a permittee obtained authorization under this Standard Permit for emission units that are outside the scope of 116.620, then EPA or the public could address this implementation failure on a permit specific basis or other CAA remedy mechanism, such as a finding of failure to implement.

III. EPA's Evaluation

The Act at Section 110(a)(2)(C) requires states to develop and submit to EPA for approval into the state SIP, preconstruction review and permitting programs applicable to certain new and modified stationary sources of air pollutants for attainment and nonattainment areas that cover both major and minor new sources and modifications, collectively referred to as the NSR SIP. The CAA NSR SIP program is composed of three separate programs: Prevention of Significant Deterioration (PSD), Nonattainment New Source Review (NNSR), and Minor NSR. PSD is established in part C of title I of the CAA and applies in areas that meet the NAAQS – “attainment areas” – as well as areas where there is insufficient information to determine if the area meets the NAAQS – “unclassifiable areas.” The NNSR SIP program is established in part D of title I of the CAA and applies in areas that are not in attainment of the NAAQS – “nonattainment areas.” The Minor NSR SIP program addresses construction or modification activities that do not emit, or have the potential to emit, beyond certain major source/major modification thresholds and thus do not qualify as “major” and applies regardless of the

designation of the area in which a source is located. Any submitted SIP revision, including revisions to a Minor NSR program, must meet the applicable requirements for SIP elements in section 110 of the Act, and be consistent with all applicable statutory and regulatory requirements.

EPA regulations governing the criteria that states must satisfy for EPA approval of the NSR programs as part of the SIP are contained in 40 CFR Sections 51.160-51.166. Regulations specific to Minor NSR programs are contained in 40 CFR Section 51.160-51.164. The TCEQ has developed the Oil and Gas Standard Permit as a component of the Texas Minor NSR program; therefore we will evaluate the Standard Permit as submitted on September 20, 1995; April 19, 1996; July 22, 1998; and September 11, 2000, against the federal requirements for Minor NSR programs.

40 CFR Section 51.160 establishes the requirements that all Minor NSR programs must meet. We will address these specific requirements in Section III.A. 40 CFR Section 51.161 establishes the public notice requirements for Minor NSR programs. We will address the public notice requirements more fully in Section III.B. Section 51.160-51.164 requires that a SIP revision demonstrate that the adopted rules will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. We will address the specific requirements for permitting activities that ensure attainment more fully in Section III.C.

A. EPA's Evaluation of Requirements for Minor NSR

EPA's regulations addressing a Minor NSR program as part of a state's SIP are included at 40 CFR 51.160, which applies to all programs under Title I of the CAA. These provisions of a Minor NSR program must provide that the permitting authority will not permit the construction

of a facility or modification that will cause a violation of applicable portions of the control strategy or interfere with attainment or maintenance of a NAAQS. To accomplish this goal, the state's Minor NSR program must include the means by which the state agency will review and take final action on proposed new construction or modification to be protective of the control strategy and NAAQS. As stated in 40 CFR 51.160, all NSR programs, including the Minor NSR program, must include legally enforceable⁴ procedures that meet the following requirements:

- Provide for the submission, by the owner or operator of the building, facility, structure or installation to be constructed or modified of such information on the nature and amounts of emissions to be emitted by it or emitted by associated mobile sources; and the design, construction and operation of such facility, building, structure, or installation as may be necessary to allow the permitting authority to make a determination on approvability. 40 CFR 51.160(c).
- The Minor NSR program must provide that approval of any construction or modification must not affect the responsibility of the owner or operator to comply with applicable portions of the control strategy. 40 CFR 51.160(d).
- The Minor NSR program must include procedures to identify the types and sizes of facilities, buildings, structures, or installations which will be subject to review. The Minor NSR program must also discuss the basis for determining which facilities will be subject to review. 40 CFR 51.160(e).
- The Minor NSR program must also discuss the air quality data and the dispersion or other air quality modeling used to meet the NSR requirements. 40 CFR 51.160(f).

⁴ A requirement is "legally enforceable" if some authority has the right to enforce the restriction. 67 FR 80186, at 80190.

The SIP submittals being evaluated as part of this rulemaking are for a Standard Permit that is submitted as part of Texas's Minor NSR program; therefore, the provisions from the Oil and Gas Standard Permit are evaluated against the federal requirements for Minor NSR and in conjunction with the existing SIP-approved provisions of the Standard Permitting Program found in 30 TAC Chapter 116, Subchapter F – Standard Permits that provides the basic requirements that a facility must meet to qualify for a Standard Permit.

Based on our evaluation, we propose to find that the Oil and Gas Standard Permit provisions found in 30 TAC 116.620 provide for the necessary procedures and applicable requirements that are required for Minor NSR programs. Our evaluation is summarized below with additional details regarding our evaluation available in the TSD accompanying this rulemaking.

In accordance with 30 TAC 116.611, sources seeking authorization via the Oil and Gas Standard Permit are required to submit a Standard Permit registration to TCEQ, which is to include information regarding the proposed project to be authorized (e.g., emission estimates, description of project and related process, description of equipment being installed). 30 TAC 116.615 includes general conditions that must be met by sources authorized via a Standard Permit, including the Oil and Gas Standard Permit. These general conditions specifically require that sources authorized under a Standard Permit comply with all “rules, regulations, and orders of the commission issued in conformity with the [Texas Clean Air Act].” See 30 TAC 116.615(10). In the case where more than one state or federal rule of regulation or permit condition are applicable, the source must comply with the most stringent requirement or limit. See 30 TAC 116.615(10). Therefore, the conditions of the Standard Permit in no way supersede or relax other applicable state or federal requirements. In addition, the provisions found in the

Oil and Gas Standard Permit under 30 TAC 116.620 also require that sources authorized under the Standard Permit submit appropriate documentation to demonstrate compliance with state and federal provisions, including PSD, NNSR, NSPS, and NESHAP. The Standard Permit also requires that new or increased emissions authorized under the permit shall not cause or contribute to a violation of any NAAQS and references that engineering judgment and/or air dispersion modeling may be used to demonstrate NAAQS compliance for the specific minor construction project. See 30 TAC 116.620(a)(13)-(17). Regarding testing, recordkeeping, reporting and monitoring provisions, the Oil and Gas Standard Permit contains provisions that include these requirements for the emission sources that can be authorized under the Standard Permit. See 30 TAC 116.620(c)-(e). As discussed in Section I.E of this rulemaking and the accompanying TSD, the Oil and Gas Standard Permit may be used to authorize only those emission sources that are specifically covered by the Standard Permit provisions. Therefore, the Standard Permit contains testing, recordkeeping, reporting and monitoring provisions for the covered emission sources as necessary to ensure compliance with applicable requirements for those covered sources.

Based on our evaluation of the proposed provisions found in the Standard Permit, in conjunction with the underlying SIP-approved provisions of the Texas Standard Permitting Program found in Chapter 116, Subchapter F, we propose to find that the Oil and Gas Standard Permit meets the requirements that are applicable to Minor NSR.

B. EPA's Evaluation of Public Availability of Information Requirements for Minor NSR

Federal requirements for public notice of Minor NSR programs are found at 40 CFR 51.160 and 51.161. The procedures for a Minor NSR program in 40 CFR 51.160 require an opportunity for public comment on information submitted by the permit applicant and on the

permitting authority's analysis of the application, submitted materials and proposed approval or disapproval of the permit application. EPA further explains at 40 CFR 51.161(b) that opportunity for public comment is, at a minimum, the availability for public inspection in at least one location in the area affected of the information submitted by the owner/operator and of the permitting authority's analysis of the effect on air quality; a 30-day period for submittal of public comment; and a notice by prominent advertisement in the area affected of the location where the public can see the submitted materials and analysis. The SIP submittals being evaluated as part of this rulemaking are for a Standard Permit; therefore, the provisions from the Oil and Gas Standard Permit are evaluated against the federal requirements regarding public notice in conjunction with the existing SIP-approved provisions of the Standard Permits Program found in 30 TAC Chapter 116, Subchapter F – Standard Permits that provides the basic requirements that a facility must meet to qualify for a Standard Permit, including public participation requirements. See 30 TAC 116.603.

Based on our evaluation, we propose to find that the SIP's general provisions for all Standard Permits found at 30 TAC 116.603 apply to the Oil and Gas Standard Permit. These general provisions were found to meet EPA's requirements for public participation for minor NSR permits and in some cases are more stringent. (73 FR 53716, September 17, 2008). As required by 30 TAC 116.603, a Standard Permit must comply with the following public notice requirements:

- Notice of a proposed Standard Permit is required to be published in the *Texas Register*, the commission's publicly accessible electronic media, and in a daily or weekly newspaper of general circulation in the area affected by the activity that is subject to the proposed permit. If the proposed standard permit will have statewide applicability, notice

will be published in the daily newspaper of largest general circulation within each of the following metropolitan areas: Austin, Dallas, and Houston and any other regional newspapers designated by the executive director on a case-by-case basis. Additionally, the commission will publish notice in the Texas Register and issue a press release;

- The notice must provide for a public comment period on the proposed Standard Permit of at least 30 days;
- A public meeting is required to be held to provide an additional opportunity for public comment;
- Written responses must be prepared to all public comments received from the public related to the issuance of a Standard Permit, which will be made available to the public;
- Notice of the final action on the proposed Standard Permit is required to be published in the Texas Register, including the text of the response to comments; and
- Copies of the final issued Standard Permit along with the response to public comments received on the draft permit are required to be made available at the TCEQ Austin office and appropriate TCEQ regional offices.

Subsequent amendments or revocation of an issued Standard Permit must also meet the public notice procedures contained in Section 603, as required by 30 TAC 116.605.

Based on our evaluation of the proposed provisions found in the Oil & Gas Standard Permit, as well as the underlying SIP-approved provisions of the Texas Standard Permitting Program found in Chapter 116, Subchapter F, we propose to find that the Oil and Gas Standard Permit meets the federal public notice requirements that are applicable to Minor NSR for those emission sources that are specifically covered by the Standard Permit provisions. In addition,

Texas has provided documentation within their SIP revision submittals to document that the SIP-approved public notice process was followed consistent with the 30 TAC 116.603 requirements when the Oil and Gas Standard Permit was initially issued and subsequently amended. The SIP submittals are available in the docket accompanying this rulemaking.

C. EPA's Evaluation of the Oil and Gas Standard Permit with Respect to Attainment, Reasonable Further Progress, and Other Applicable Requirements of the Act

Under Section 110(l), the regulations submitted as SIP revisions establishing the Oil and Gas Standard Permit must meet the procedural requirements of Section 110(l) by demonstrating that the State followed all necessary procedural requirements such as providing reasonable notice and public hearing of the SIP revision. Additionally, the SIP revision must demonstrate that the adopted rules will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. We propose to find that the TCEQ satisfied all procedural requirements pursuant to Section 110(l) as detailed in our accompanying TSD.

A Minor NSR program is a requirement of the CAA and EPA's regulations at 40 CFR 51.160 – 51.164. As discussed in this proposed action and in the accompanying TSD, EPA proposes that the Oil and Gas Standard Permit as submitted on September 20, 1995, and revised through SIP submittals dated April 19, 1996; July 22, 1998; and September 11, 2000, satisfies the minimum requirements for a Minor NSR program, including adequate provisions for legal enforceability and public participation to ensure protection of the control strategy and any applicable NAAQS. The Oil and Gas Standard Permit also contains sufficient safeguards to prevent circumvention of Major NSR permitting requirements. Therefore, we propose that the

Oil and Gas Standard Permit is protective of the NAAQS and applicable control strategy requirements and satisfies the requirements of 110(l) of the Act.

D. Summary of EPA's Evaluation of the Oil and Gas Standard Permit

For the reasons presented above, EPA proposes to find that the Oil and Gas Standard Permit, as submitted on September 20, 1995, and revisions submitted on April 19, 1996; July 22, 1998; and September 11, 2000, is limited to Minor NSR. EPA proposes to find that the program satisfies the federal requirements for Minor NSR and contains sufficient enforceable safeguards to ensure that the NAAQS and applicable control strategies are protected.

E. Summary of EPA's Evaluation of the Revisions to the Standard Permit Applicability Provisions

On February 1, 2006, and March 11, 2011, the State of Texas submitted revisions to the Standard Permit SIP rules, which made non-substantive changes to the applicability provisions in 30 TAC 116.610(a) and (b). The revisions include changes such as defining acronyms, changing capitalization, rephrasing, and updating and deleting cross-references as appropriate due to revisions to other sections. EPA proposes to approve the revisions to 30 TAC 116.610(a) and (b) because these changes are ministerial and non-substantive in nature.

IV. Proposed Action

We are proposing to approve the submittals for a Minor NSR Oil and Gas Standard Permit submitted September 20, 1995; April 19, 1996; July 22, 1998; and September 11, 2000. We also are proposing to approve the submittals for the Standard Permit SIP rules making non-substantive changes to the Standard Permit applicability provisions in 30 TAC 116.610(a) and (b) as submitted February 1, 2006, and resubmitted March 11, 2011. EPA is proposing this action in accordance with section 110 of the Act.

After review and consideration of public comments, we will take final action on the SIP revisions that are identified herein.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this notice merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: December 16, 2013

Ron Curry,

Regional Administrator, EPA Region 6.